

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0090

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to HANSON-EXPLOSIVES AND DESTRUCTIVE
2 DEVICES.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-14A-4 be amended to read as follows:

5 22-14A-4. Any person who knowingly sells, offers for sale, transports, or possesses any
6 destructive device is guilty of a Class 4 felony. If such person has been previously convicted of
7 a crime of violence in this state or elsewhere, ~~he is guilty of the offense is~~ is a Class 3 felony.

8 Section 2. That § 22-14A-5 be amended to read as follows:

9 22-14A-5. Any person who, with intent to injure or to threaten to injure any person or
10 property:

11 (1) Carries any explosive or destructive device on any vessel, aircraft, motor vehicle, or
12 other vehicle that transports passengers for hire;

13 (2) Places or carries any explosive or destructive device, while on board any such vessel,
14 aircraft, motor vehicle, or other vehicle, in any hand baggage, roll, or other container
15 with intent to conceal the ~~same~~ explosive or destructive device;

16 (3) Places any explosive or destructive device in any baggage which is later checked with



1 any common carrier;

2 is guilty of a Class 2 felony.

3 Section 3. That § 22-14A-6 be amended to read as follows:

4 22-14A-6. Any person who has in his or her possession any explosive or destructive device
5 under circumstances not ~~enumerated~~ described in § 22-14A-5, with intent to injure, intimidate,
6 or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a
7 Class 3 felony.

8 Section 4. That § 22-14A-11 be amended to read as follows:

9 22-14A-11. Any person who explodes or ignites any destructive device or explosive with
10 intent to cause serious bodily ~~harm~~ injury and which results in serious bodily ~~harm~~ injury is
11 guilty of a Class 2 felony.

12 Section 5. That § 22-14A-13 be amended to read as follows:

13 22-14A-13. Any person who possesses any substance, material, or any combination of
14 substances or materials, with the intent to make a destructive device without first obtaining a
15 permit from the Department of Public Safety to make such device, is guilty of a Class 5 felony.

16 Section 6. That § 22-14A-16 be amended to read as follows:

17 22-14A-16. ~~This~~ the provisions of this chapter ~~shall~~ do not apply to the armed forces of the
18 United States, the national guard, any law enforcement agency or any officer, agent, employee,
19 or member thereof, acting in a lawful capacity, and any person possessing a valid seller's permit
20 or user's permit from the United States federal government for explosive and destructive
21 devices.

22 Section 7. That § 22-14A-18 be amended to read as follows:

23 22-14A-18. Any person who intentionally destroys or attempts to destroy by the use of any
24 explosive or destructive device, any property real or personal, not the property of such person,

1 although ~~the same is~~ done under such circumstances as not to endanger the life or safety of any
2 human being, is guilty of a Class 4 felony. This section ~~shall~~ does not apply to any property
3 destroyed under the direction of any firefighter or any law enforcement officer of any
4 municipality to prevent the spread of a fire.

5 Section 8. That § 22-14A-19 be amended to read as follows:

6 22-14A-19. Any person who intentionally, by the use of an explosive or destructive device,
7 destroys or injures ~~the whole or any part of~~ any occupied or unoccupied structure, motor vehicle,
8 street, highway, railway, bridge, dam, ~~dyke~~ dike, or other structure, by means of which the life
9 or safety of any human being is endangered, is guilty of a Class 3 felony.

10 Section 9. That § 22-14A-20 be amended to read as follows:

11 22-14A-20. Any person who takes into, upon, under, against, or near to any occupied or
12 unoccupied structure, motor vehicle, street, highway, railway, bridge, dam, ~~dyke~~ dike, or other
13 structure, any explosive or destructive device, with intent to destroy or injure ~~the whole or any~~
14 ~~part thereof~~ such structure, under circumstances that if such intent were accomplished, human
15 life or safety would be endangered thereby, ~~although no damage is done~~, is guilty of a Class 4
16 felony. It is no defense to a prosecution under this section that no damage is done.

17 Section 10. That § 22-14A-21 be amended to read as follows:

18 22-14A-21. Any person may possess destructive devices that are registered with, or licensed
19 by, the state or federal government pursuant to law.

20 Section 11. That § 22-14A-22 be amended to read as follows:

21 22-14A-22. Any person who makes a false report, with intent to deceive, mislead, or
22 otherwise misinform any person, concerning the placing or planting of any bomb, dynamite,
23 explosive, destructive device, dangerous chemical, biological agent, poison or harmful
24 radioactive substance, is guilty of falsely reporting a threat. Falsely reporting a threat is a Class

6 felony. Any person found guilty of falsely reporting a threat shall pay restitution for any expense incurred as a result of the crime. ~~The person is also civilly liable for any injury to person or property from the false report and any costs related to responding to the false report.~~

If the person making the false report prohibited by this section is a minor, the court, in addition to such other disposition as the court may impose, shall require the minor to perform at least fifty hours of public service unless tried as an adult.

Section 12. The code counsel shall renumber § 22-14A-22 as § 22-11-9.2 and adjust all appropriate cross references.

Section 13. That § 22-14A-23 be amended to read as follows:

22-14A-23. No person may, with the intent to cause bodily injury to another person, use or place a hazardous or injurious device on any land owned or leased by the State of South Dakota, including any highway, road, or right-of-way. A violation of this section is a Class 1 misdemeanor.

For the purposes of this section, the term, a hazardous or injurious device ~~is~~, means any device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any person making contact with such device subsequent to the assembly or placement. The term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails, or other such devices placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump. However, the term does not include puncture strips placed by law enforcement officers in an immediate attempt to stop a fleeing vehicle.

Section 14. That § 22-14A-24 be amended to read as follows:

22-14A-24. Any person who intentionally communicates a threat by leaving a substance or device, thereby causing either serious public inconvenience, or the evacuation or serious disruption of a building, place of assembly, facility of public or school transport, or a school related event, is guilty of communicating a ~~terroristic~~ felonious threat. For the purposes of this section, a substance or device includes, ~~but is not limited to, an~~ any actual or ~~apparent~~ apparently dangerous weapon, destructive device, dangerous chemical, biological agent, poison, or harmful radioactive substance. A violation of this section is a Class 4 felony.

Section 15. That § 22-14A-25 be amended to read as follows:

22-14A-25. Any person who intentionally possesses, transports, uses, or places any hoax substance or hoax destructive device with the intent of causing anxiety, unrest, fear, or personal discomfort is guilty of a ~~Class 5~~ Class 6 felony. A hoax substance is any substance that would cause a person to reasonably believe that it is a dangerous chemical or biological agent, a poison, a harmful radioactive substance, or a similar substance. A hoax destructive device is any device that would cause a person to reasonably believe that it is a dangerous explosive or incendiary device or a similar destructive device.

Section 16. That § 22-14A-26 be amended to read as follows:

22-14A-26. The court may, after conviction or adjudication of any violation of §§ ~~22-14A-22 and 22-14A-24 to 22-14A-27, inclusive~~ § 22-11-9.2, 22-14A-24, or 22-14A-25, conduct a hearing to ascertain the extent of costs incurred, damages, and financial loss suffered by local, county, or state public safety agencies, and the amount of property damage caused as a result of the crime. A person found guilty of violating §§ ~~22-14A-22 and 22-14A-24 to 22-14A-27, inclusive~~ § 22-11-9.2, 22-14A-24, or 22-14A-25, may upon conviction, be ordered to make restitution to the local, county, or state public service agency for any cost incurred, damages, and

1 financial loss or property damage sustained as a result of the commission of the crime.

2 Section 17. That § 22-14A-27 be amended to read as follows:

3 22-14A-27. The provisions of §§ ~~22-14A-22 and 22-14A-24 to 22-14A-27, inclusive, § 22-~~
4 11-9.2, 22-14A-24, or 22-14A-25 may not be construed to create any cause of action against any
5 person based upon or arising out of any act or omission relating to any good faith response to
6 a ~~terrorist act~~ felonious threat or an attempted ~~terrorist act~~ felonious threat.